

# MILITARY GOVERNMENT COURT

CASE RECORD

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CASE NO. HUGHES 101 D

PROSECUTOR Mr. William D. Benson

\* SUMMARY  
INTERMEDIATE MILITARY COURT  
GENERAL

DEFENSE COUNSEL Major Carl Whitney

INTERPRETERS RUDOLF MATHAMSON

REPORTERS / FRED STECKER  
GEORGE CONVERSE

PLACE Dachau, Germany

DATE 11 April 1947

WITNESSES

SALLY ROSE HAYETT

PAULA L. SILVERMAN

JOHN G. McDONALD

IRVING J. HAYETT

WILLIAM F. JONES

PETER L. DE CORTI

DR. HARRY PHILLIPS

JEAN ORUTTI

GENERAL CHARLES FURBY

ACCUSED JONAS PRINCE DU WALDORF et al.

ADDRESS \_\_\_\_\_

SEX \_\_\_\_\_

AGE \_\_\_\_\_

FIRST CHARGE \_\_\_\_\_

SECOND CHARGE \_\_\_\_\_

PLEAS \_\_\_\_\_

FINDINGS \_\_\_\_\_

PREVIOUS CONVICTIONS \_\_\_\_\_

IMPRISONMENT \_\_\_\_\_

(TERM \_\_\_\_\_)

(BEGINNING \_\_\_\_\_)

194 \_\_\_\_\_

SENTENCE \_\_\_\_\_

AMOUNT \_\_\_\_\_

TO BE PAID BEFORE \_\_\_\_\_

194 \_\_\_\_\_

FURTHER TERM OF \_\_\_\_\_

IMPRISONMENT \_\_\_\_\_

FINE \_\_\_\_\_

CHARGE SHEET AND RECORD OF TESTIMONY ARE ANNEXED HERETO.

SIGNATURE OF MEMBER OF COURT \_\_\_\_\_

REVIEW \_\_\_\_\_

ACTION OF REVIEWING AUTHORITY \_\_\_\_\_

SIGNATURE OF REVIEWING AUTHORITY \_\_\_\_\_

\*STRIKE OUT WORDS NOT APPLICABLE.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus JOSIAS PRINCE ZU WALDECK, et al

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU GERMANY

BEGINNING 11 APRIL 1947

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TESTIMONY

<u>WITNESSES</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>	<u>Court</u>
DR. HARRY PHILLIPE	43	46			
JEAN CERUTTI	47	49			
GENERAL CHARLES FURBY	56	60			

EXHIBITS

<u>No.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>RECD IN EV.</u>
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Camp Dachau, Germany

11 April 1947

A General Military Government Court appointed by Special Order Number 18, paragraph 4, dated 1 April 1947, Headquarters, European Command, APO 757, met at Camp Dachau, Germany on 11 April 1947 at 1000 hours, as directed by the president thereof.

The court proceeded in open court to the trial of Josias Prince zu Waldeck, Otto Barnewald, August Bender, Anton Bergmeier, Arthur Dietzsch, Hans Eisele, Werner Greunuss, Philipp Grimm, Hermann Grossmann, Heinrich Hackmann, Gustav Heigel, Hermann Helbig, Edwin Katzen-Ellenbogen, Josef Kestel, Ilse Koch, Richard Koehler, Hubert Krautwurst, Hans Merbach, Peter Merker, Wolfgang Otto, Hermann Pister, Emil Pleissner, Guido Reimer, Helmut Roscher, Hans Schmidt, Max Schobert, Albert Schwartz, Walter Wendt, Friedrich Wilhelm, Hans Wolf, Franz Zinecker and various other persons.

\* \* \* \*

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, the prosecution is ready to proceed with the trial of the United States against the following named accused:

Josias Prince zu Waldeck, Otto Barnewald, August Bender, Anton Bergmeier, Arthur Dietzsch, Hans Eisele, Werner Greunuss, Philipp Grimm, Hermann Grossmann, Heinrich Hackmann, Gustav Heigel, Hermann Helbig, Edwin Katzen-Ellenbogen, Josef Kestel, Ilse Koch, Richard Koehler, Hubert Krautwurst, Hans Merbach, Peter Merker, Wolfgang Otto, Hermann Pister, Emil Pleissner, Guido Reimer, Helmut Roscher, Hans Schmidt, Max Schobert, Albert Schwartz, Walter Wendt, Friedrich Wilhelm, Hans Wolf, Franz Zinecker and divers other persons



who were engaged in the operation of the Buchenwald Concentration Camp and its out-camps.

PRESIDENT: The court has appointed Fred Stecker, Rudolf Nathanson and George Converse as interpreters. They will be sworn.

(Whereupon Fred Stecker, Rudolf Nathanson and George Converse, U.S. Civilians, were sworn as court interpreters.)

PRESIDENT: The court has appointed John G. McDonald, Irving J. Hayett, Sally Rose Hayett, Paula L. Silverman, Peter L. DiCurti and William F. Jones as court reporters. They will be sworn.

(Whereupon John G. McDonald, Irving J. Hayett, Sally Rose Hayett, Paula L. Silverman, Peter L. DiCurti, U.S. Civilians, and Private William F. Jones as court reporters.)

PROSECUTION: May it please the court, I would like to say at this time that all of the accused are present with their regularly appointed defense counsel.

PRESIDENT: Whom does the accused desire to introduce as counsel in addition to the regularly appointed defense counsel?

DEFENSE COUNSEL: Before introducing the special defense counsel the defense respectfully asks the court to ask any possible prosecution witnesses to leave the courtroom. The defense makes that request because we have information that there are prosecution witnesses sitting in the courtroom.

PROSECUTION: May it please the court, in reply to that I would like to say this: that there are no witnesses that are going to testify in this trial prior to some time this afternoon. There is no reason in the world why witnesses for the prosecution, as well as spectators, may not sit here and observe these proceedings up until the time the first witness takes the stand.

PRESIDENT: The request of the defense is denied.

DEFENSE COUNSEL: The accused desire to introduce as special defense counsel, the following: Dr. Richard Wecker, German nationality, attorney; Dr. Ludwig Renner, German nationality, attorney; Dr. Emil Aheimer, German nationality, attorney; and Dr. Karl Kopf, German nationality, attorney. All are duly qualified to practice before this court or have received permission to appear before this court for the purposes of this trial.

PRESIDENT: The German defense counsel introduced on behalf of certain of the accused are permitted to practice before this court for this case, but the court directs that the chief defense counsel advise the court during the trial of this case of any facts that would disbar the German attorneys from further proceeding therein.

PROSECUTION: May it please the court, the following members of the court are present:

Brigadier General Emil C. Kiel  
Lieutenant Colonel John S. Dwinell  
Colonel Gilbert E. Ackerman  
Colonel Harry R. Pierce  
Colonel William W. Robertson  
Colonel Earle B. Dunning  
Lieutenant Colonel Edward B. Walker  
Lieutenant Colonel James M. Morris.

The general nature of the charge and particulars in this case is the violation of the laws and usages of war in that the named accused did aid, abet or participate in the operation of the Buchenwald Concentration Camp and its by-camps during a period of time from 1 September 1939 up till approximately the 8th day of May 1945, and in the operation of this camp they did subject the inmates who were nationals of the Netherlands, British subjects, Poles, Frenchmen, Americans, citizens of the Grand Duchy of Luxembourg and other countries throughout Europe, to beatings, tortures, killings, starvations and

other indignities.

At this time the prosecution asks whether or not there is any member of this court fundamentally opposed to capital punishment if the evidence should warrant the imposition of same.

PRESIDENT: There are none.

PROSECUTION: The prosecution will not call any member of the court as a witness. Will the accused call any member of the court as a witness?

DEFENSE COUNSEL: Before answering that question and before the president of this court pronounces that the court has satisfied itself that it has jurisdiction over the persons and offenses of the accused, the defense makes the following special plea to the jurisdiction of the court:

Paragraph 1. Now come the accused through their regularly assigned defense counsel and make the following plea:

The accused challenge the jurisdiction of this court to hear evidence concerning offenses allegedly committed in the vicinity of Thuringia, Saxony, the Rhineland, the Ruhr and Westphalia, Germany, said areas being outside the geographical boundaries of the American Occupation Zone except insofar as citizens of the United States of America are allegedly the victims of the acts alleged in the charge sheet.

Paragraph 2. The accused challenge the jurisdiction of this court to hear evidence of offenses committed between the 1st of September 1939 and the 9th of December 1941 against the laws and usages of war, against citizens of the United States of America for the reason that a state of war did not exist between the United States of America and the German Third Reich during said period.

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Paragraph 3. The accused challenge the jurisdiction of this court to hear evidence concerning offenses committed in violation of the laws and usages of war against citizens of the United States of America and any of its allies between the 1st of September 1939 and 9 December 1941 for the reason that an American Military Government Court lacks jurisdiction to punish for any war crimes allegedly committed prior to the date that a state of war existed between the United States of America and a belligerent country.

In support of this plea the defense argues that this court only has jurisdiction to hear evidence concerning offenses allegedly committed in the American Zone of Occupation or where the victims of the acts alleged were citizens of the United States of America, for the reason that Title 5 of Military Government Regulations in Section 5.300.3 provides that

"Military Government Courts have jurisdiction over all offenses committed in the United States Zone against the legislation enacted by Military Government, the existing German law and the laws and usages of war."

This provision confines the jurisdiction to offenses committed in the United States Zone. While ordinarily Military Commissions are not restricted in their jurisdiction by territorial limits, and thus an offense against the laws of war committed in a country prior to occupation may properly be tried before a Military Commission of the victorious army upon occupation, the correlative of this rule is that where the victorious army is not, in fact, occupying the territory where the offense was committed, the Military Commission does not have jurisdiction. It is manifestly impossible for the American Military Governor, under whose authority this court was appointed, to exercise authority over a geographical location in which his own troops are not present. The territorial principle of determining jurisdiction



by reference to the place where the offense was committed is generally recognized by authorities as of primary importance and fundamental in character. This principle has been enunciated in letter dated 14 October 1946, file 000.5, J.A.G.-AGO, subject: "Trial of War Crimes Cases", wherein it is stated by USFET that

"hereafter Military Government courts for the trial of war crimes cases involving American nationals as victims and mass atrocities committed in the American Zone of Occupation will be appointed by, and all further action in connection with such cases will be taken by this Headquarters."

That statement of policy has never been changed, so that it can be assumed that when this Buchenwald case was referred to trial it was the understanding of the appointing authority that the court would only take jurisdiction over those offenses for which it is competent to handle.

Territory is considered occupied when it is actually placed under the authority of the hostile army and the occupation extends only to the territory where such authority has been established and can be exercised, according to Section III, Article 42 of the Hague Convention, dated 18 October 1907.

Military occupation is a question of fact. In order to exercise powers of occupation, the occupation once acquired must be maintained and in case the occupation evacuates the district, the occupation ceases and thereby jurisdiction is relinquished as in the present case. Although the American Army at one time occupied the area in the vicinity of Buchenwald, it subsequently evacuated and therefore has lost jurisdiction, except as to those portions mentioned in the charge sheet remaining in the American Zone, or except as to offenses committed against American citizens.



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to the Military Courts of every state at all times and in all places is intolerable. A limitation must be placed upon the date that an alleged war crime can be committed;-- a state of war must exist before a war crime can be committed; -- as a state of war did not exist until 1941, no American national could be a victim of a war crime prior to that date. The nation that seeks to punish for such offenses must have been a participant during the period said offenses allegedly occurred. This is a rule of reason and justice.

It is clear from a standpoint of policy that only mass atrocities committed in the American Zone of Occupation or those war crimes cases involving American nationals as victims will be tried by an American Military Government Court, according to letter above cited.

In conclusion, the defense wishes to quote from a famous author, Vattel, in his book, "The Law of Nations", and this quotation as paraphrased by the defense, is the key not only to this motion, but to the whole trial:

"Let us never forget that our enemies are men. Though reduced to the disagreeable necessity of prosecuting our right by force of arms, let us not divest ourselves of that charity which connects us with all mankind. Thus shall we courageously defend our country's rights without violating those of human nature. Let our valor preserve itself from every stain of cruelty and the luster of victory will not be tarnished by inhuman and brutal actions."

To paraphrase that last sentence, the defense says: Let our valor preserve itself from every stain of injustice and the luster of victory will not then be tarnished by illegal actions that are unprecedented and for which there is no basis in the principles of International Law.

PROSECUTION: May it please the Court, in reply to that the Prosecution would respectfully like to point out to the Court, first of all, that the citation from Title V, Military Government Regulations, does not say that the United States is limited to only those offenses which took place in the United States Occupied Zone.

There is some basis for Ground I of this motion in that the letter that was first issued concerning the establishment of Military Government Courts and their appointment, is a little ambiguous in that the language employed states frankly that, "Hereafter Military Government Courts for the trial of War Crimes Cases involving American nationals as victims and mass atrocities committed in the American Zone of Occupation will be appointed by, and all further actions in connection with such cases will be taken by this headquarters. The principles hereinafter set forth will be adhered to in the appointing of such courts and in the taking of such actions."

However, May it please the Court, I would like to say that even the language employed here does not deprive this court of the power to try a case arising in a zone other than that which is now occupied by the American authorities. If you will read further to Paragraph 5 under Section 120, in which this letter is set out, the court will find the following statement: "As a matter of policy, such cases involving offenses against the laws and usages of war or the laws of the occupied territory or any part thereof commonly known as war crimes, committed prior to 9 May 1945, as may from time to time be determined by the Deputy Theatre Judge Advocate for War Crimes, will be tried before specially appointed Military Government Court except where otherwise directed by the Theatre Commander."

To clear up the ambiguity that existed under the statement contained in Title V and Paragraph 4 of this letter, the Deputy Theatre Judge Advocate rendered an opinion in which it was stated that the matter contained in the letter would not in anywise constitute a limitation upon the jurisdiction of any General Military Government Court to try mass

atrocities cases arising in zones outside of those occupied by the United States forces for the reason that there may be many considerations of policy why they should be tried by a court appointed by the United States authorities.

There is a more fundamental basis for the jurisdiction of this Court than that which is set forth here and that is this: Jurisdiction is power -- power over the person and power is competence to hear the cause with which the accused stand charged. If those two essential elements of jurisdiction are satisfied then it is said that a court has the right to proceed to the trial, hear the evidence, make a determination and render a judgment. Both of these elements of jurisdiction are satisfied here. The accused are physically present before this court and are in the custody of the United States. This Court has the authority to try violations of International Law in the form of violations of the laws and usages of war. There can be no dispute about that power resting in this Court.

The offense charged here is a violation of the laws and usages of war. Therefore, so far as the territorial ground of this plea to the jurisdiction is concerned, it is untenable for those reasons. With respect to the second and third grounds of the motion, may it please the Court, which raises the question that the offense charged took place prior to the entry of the United States into a state of war, are likewise untenable. The reason for that is this: Violations of the laws and usages of war are violations of International Law and violations of International Law are the concern of each and every member of the family of nations. Of necessity, violations of International Law become the concern of each and every member of the family of nations. If that were not true, it would not be long before those who sought to profit by violations of International Law would make a chaos of the entire civilized world. The members of the family of nations cannot look with indifference upon violations of International Law,



if peace in any form is to be preserved.

Take, for instance, the case of piracy. A pirate commits a violation of International Law when he acts in a piratical manner. Any nation which obtains custody of the pirate has the authority to punish him for his piracy, even though the act of piracy is not committed against any one of the nationals of the nation that has him in custody. This is an inherent right that exists in the sovereign power of every nation because of the fact that they are members of the family of nations.

In like manner, we have, in substance, charged these individuals as being pirates of the laws and usages of war. We have these pirates here in our custody and we have the right to try them for violations of International law. This is not a trial, may it please the Court, of the controversion of law to which these accused are not subject, being German nationals or persons acting with German nationals. They were subject to International Law, the same as the United States and as such, when they violated International Law, they have a right to be punished by any country that expresses a desire and has the power to do so.

It may be argued that that is a change in policy but that change in policy is a change that has found expression in the Moscow Declaration in which the four powers agreed that war criminals, persons who violated the laws and usages of war, would be punished for their misconduct. This trial is nothing more than a pursuance, an effectuation of the policy that was expressed there and which was reenacted in Control Council Law No. 10.

When the United States entered the war it assumed the role of a cobelligerent with the Allies, as such, it took the benefits with the burdens and in so doing it stood in a relationship of privity with the cobelligerents. So that these offenses which were committed against these Allied nationals prior to the time that the United States entered the war and the fact that they are or should be punished for these offenses, is an obligation that the United States has assumed when it assumed its status as a cobelligerent with the Allies.

Thus, on these two grounds, first, that the United States as a member of the family of nations has an interest in punishing war crimes to prevent their repetition and second, on the ground that the United States, by entering the war when it did, constituted but a single team in the prosecution of the war and thereby became in a state of privity with the Allies who had previously been fighting that war. They have an interest which is direct, which would justify the imposition of penalties upon those who are found guilty of the violation of the laws of war as early as September 1939.

PRESIDENT: Does the defense have any rebuttal arguments?

- DEFENSE COUNSEL: The United States today is indeed embarking on a novel policy if it adopts the policy that every man who is accused of an offense is a pirate. The defense resents the implication of the prosecution that the accused are pirates. The analogy of the law of piracy is not applicable in this instance. Pirates stand outside of all law, international and municipal. These accused stand within the protection of international law. The defense contends that the charge sheet should be amended as requested in the plea, to exclude the period of time that the United States was a neutral nation.

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1100 hours.)

\* \* \* \*

(Whereupon the court was opened at 1115 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court; all the personnel of the prosecution; all the personnel of the defense and all the accused are present.

LAW MEMBER: Subject to objection by any member of the court, the law member will render the decisions for the president.

The accused, through their regularly appointed defense counsel, have made a plea to the jurisdiction of this court upon three separate grounds. The court will consider each of these grounds separately.

The first part of the motion is a challenge to the jurisdiction of the court upon the objection that evidence cannot be received concerning offenses committed in areas outside the geographical boundaries of the American occupation zone except insofar as citizens of the United States of America are allegedly the victims of the alleged acts in the charge sheet. We hold that military government courts, as well as military

commissions are not restricted in their jurisdiction by territorial limits and we cite as authority the opinion of the Deputy Theater Judge Advocate for War Crimes appearing on pages 9 and 10 of the Manual for Trial of War Crimes and Related Cases, and also the opinion of the Deputy Theater Judge Advocate for War Crimes appearing on pages 14 and 15 of the Manual.

Furthermore, this case having been referred to trial to this court by the Commanding General of the European Command, this court will take notice of the fact that all procedural and administrative details and prerequisites have been complied with by the United States Government and that no request to the United States Government for extradition of any of the accused has been made by any other government, and that there is no reason for doubting that any other government has not given at least a tacit approval for the trial of the accused by the United States Government, in whose custody and control the accused are now held.

It has always been a fundamental principle of law that where a person, being beyond the limits of a state or country, puts in operation a force which produces a result, and constitutes a crime within those limits, he is as liable to indictment and punishment if jurisdiction can be obtained of his person as if he had been within the limits of the state or country where the crime was committed.

Aside from this the court cites the opinion of the Deputy Judge Advocate for War Crimes recently made under date of 9 April 1947 to the effect that the Deputy Judge Advocate for War Crimes, pursuant to authority from the Theater Commander, will develop and legally refer for trial mass atrocities committed in the American Zone of Occupation and certain additional and outstanding mass atrocities committed in areas overrun by American Forces or where other circumstances indicate they should be tried by United States Forces in this theater without regard to whether mass atrocities, operation, or parts thereof were carried on inside or outside the present boundaries



of American Zones of Occupation.

This court therefore holds that it is properly constituted and has jurisdiction over the subject matter of this case and the person of each of the accused.

As to the plea to the jurisdiction which concerns itself with the challenge to hear evidence of offenses committed between 1 September 1939 and 9 December 1941, as covered in points 2 and 3 of the motion, this court will take judicial notice of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945 and the provisions of Control Council Law No. 10.

When the United States Government entered into the agreements and treaties made at the conclusion of hostilities in World War II, it agreed to cooperate with the other Allied powers in bringing to justice in a practical and expedient manner those war criminals that were determined by the various Allied powers to be tried in the various Zones. When the Government of the United States entered into a state of war against the Third German Reich and the Axis powers on 9 December 1941, it is to be noted that at the same time it agreed with its co-belligerents, the Allied powers, to assume certain obligations and liabilities that had accrued by reason of the great conflict which began on 1 September 1939. The discharge of these obligations necessarily includes the cooperating with the other Allied powers in the prosecution of war crimes, crimes against humanity, and violations of international law which were committed on or after 1 September 1939, and which above all we have agreed to do our part and our share in the prosecution thereof.

The motion of the accused in plea to the jurisdiction of this court is therefore in all respects denied.

DEFENSE COUNSEL: In answer to the question of the prosecution whether the accused will call any member of the court as a witness, the answer is, no.

Take 4 - Buchenwald - wfj 1  
11 April 1947  
11:30 AM

PROSECUTION: Has any member of this court a personal interest in this case?

PRESIDENT: No.

PROSECUTION: Lieutenant Colonel John S. Dwinell, a member of the court, is an officer with legal training.

PRESIDENT: The court has satisfied itself that it is properly constituted under the laws and rules governing Military Government Courts and has jurisdiction over the persons and offenses of the accused. If either the prosecution or the defense has any ground for challenge of any member, it is requested that it be disclosed now.

PROSECUTION: The prosecution has no challenge.

CAPTAIN LEWIS: If the court please, on behalf of the accused I ask permission of this court to lay a foundation for a possible challenge for cause against the court. The basis for that is that this case, the Buchenwald Case, has received a great amount of publicity and the nature of this publicity is against these accused.

For the past two weeks in particular both the German radio and the American radio have been full of allegations against these accused. The Press, too, has not been backward in its denunciation of these accused. The prosecution also has not missed an opportunity to brand these people as arch criminals without giving them the opportunity of answering the charges in the same manner of communication that the prosecution has had.

We do not deny the right of the Press to report facts but we contend that this case has been tried in the papers before it has been brought to this court of justice. There have been

other instances of impropriety. This very morning outside this building there are two wreaths commemorating the dead of the concentration camp. Several of the accused have been vividly pictured in the newspapers and over the radio as being arch criminals of the worst type. We contend that all this publicity has tended to create an opinion in the mind of the court as to the guilt or innocence of these accused.

We ask permission of the court to poll the members of the court individually whether they have formed an opinion as to the guilt or innocence of the accused. If we are satisfied that this court has not formed such an opinion by reason of the wide publicity given this case, then we will have no ground for challenge against the court. I respectfully ask the court's indulgence to poll the court, either individually or as a whole, to find out whether they have formed an opinion as to the guilt or innocence of any of these accused.

PRESIDENT: Subject to the objection by any member of the court, no member of the court has formed an opinion and can hear the evidence without bias.

CAPTAIN LEWIS: Therefore there is no ground for challenge by the defense.

PRESIDENT: There being no ground for challenge, the court is declared to be properly constituted.

The trial will be conducted in open court. All interlocutory questions arising during this trial will be ruled on by the President, subject to the objection by any member of the court.

The accused will now be interrogated as to their names, ages, residences, nationalities and status.

PRESIDENT: Josias Waldeck.

(Whereupon the accused Josias Prince zu Waldeck arose.)

PRESIDENT: State your name.

ACCUSED JOSIAS PRINCE ZU WALDECK: Josias Prince zu Waldeck.

PRESIDENT: Age.

ACCUSED JOSIAS PRINCE ZU WALDECK: 50 years old.

PRESIDENT: Residence.

ACCUSED JOSIAS PRINCE ZU WALDECK: Arolsen in Waldeck.

PRESIDENT: Nationality.

ACCUSED JOSIAS PRINCE ZU WALDECK: German.

PRESIDENT: Status.

ACCUSED JOSIAS PRINCE ZU WALDECK: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you Placard Number 1.

PRESIDENT: Otto Barnewald.

(Whereupon the accused Otto Barnewald arose.)

PRESIDENT: State your name.

ACCUSED OTTO BARNEWALD: Otto Barnewald.

PRESIDENT: Your age.

ACCUSED OTTO BARNEWALD: 51 years old.

PRESIDENT: Residence.

ACCUSED OTTO BARNEWALD: Weimar

PRESIDENT: Your nationality.

ACCUSED OTTO BARNEWALD: German.

PRESIDENT: Your status.

ACCUSED OTTO BARNEWALD: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you Placard Number 2.



PRESIDENT: August Bender.

(Whereupon the accused August Bender arose.)

PRESIDENT: State your name.

ACCUSED AUGUST BENDER: Dr. Bender, August.

PRESIDENT: Your age.

ACCUSED AUGUST BENDER: 38 years old.

PRESIDENT: Residence.

ACCUSED AUGUST BENDER: Weimar.

PRESIDENT: Your nationality.

ACCUSED AUGUST BENDER: German.

PRESIDENT: Status.

ACCUSED AUGUST BENDER: Internee.

PRESIDENT: As a means of identification, I assigned you  
Placard Number 3.

PRESIDENT: Anton Bergmeier.

(Whereupon the accused Anton Bergmeier arose.)

PRESIDENT: State your name.

ACCUSED ANTON BERGMEIER: Anton Bergmeier.

PRESIDENT: Your age.

ACCUSED ANTON BERGMEIER: 33.

PRESIDENT: Residence.

ACCUSED ANTON BERGMEIER: Rinnberg.

PRESIDENT: Nationality.

ACCUSED ANTON BERGMEIER: German.

PRESIDENT: Status.

ACCUSED ANTON BERGMEIER: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 4.

PRESIDENT: Arthur Dietzsch.

(Whereupon the accused Arthur Dietzsch arose.)

PRESIDENT: State your name.

ACCUSED ARTHUR DIETZSCH: Arthur Dietzsch.

PRESIDENT: Your age.

ACCUSED ARTHUR DIETZSCH: 46 years old.

PRESIDENT: Residence.

ACCUSED ARTHUR DIETZSCH: Detmold

PRESIDENT: Nationality.

ACCUSED ARTHUR DIETZSCH: German.

PRESIDENT: Status.

ACCUSED ARTHUR DIETZSCH: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 5.

PRESIDENT: Hans Eisele.

(Whereupon the accused Hans Eisele arose.)

PRESIDENT: State your name.

ACCUSED HANS EISELE: Hans Eisele, Doctor.

PRESIDENT: Your age.

ACCUSED HANS EISELE: 35 years old.

PRESIDENT: Residence.

ACCUSED HANS EISELE: Freiburg in Bresgau.

PRESIDENT: Nationality.

ACCUSED HANS EISELE: German.

PRESIDENT: Status.

ACCUSED HANS EISELE: German prisoner at Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 6.

PRESIDENT: Werner Greunuss.

(Whereupon the accused Werner Greunuss arose.)

PRESIDENT: State your name.

ACCUSED WERNER GREUNUSS: Dr. Werner Greunuss.

PRESIDENT: Your age.

ACCUSED WERNER GREUNUSS: 39 years.

PRESIDENT: Your residence.

ACCUSED WERNER GREUNUSS: Lueneburg.

PRESIDENT: Nationality.

ACCUSED WERNER GREUNUSS: German.

PRESIDENT: Status.

ACCUSED WERNER GREUNUSS: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 7.

PRESIDENT: Philipp Grimm.

(Whereupon the accused Philipp Grimm arose.)

PRESIDENT: State your name.

ACCUSED PHILIPP GRIMM: Grimm, Philipp.

PRESIDENT: Your age.

ACCUSED PHILIPP GRIMM: 38 years old.

PRESIDENT: Your residence.

ACCUSED PHILIPP GRIMM: Bayreuth.

PRESIDENT: Your nationality.

ACCUSED PHILIPP GRIMM: German.

PRESIDENT: Your status.

ACCUSED PHILIPP GRIMM: Civilian internee in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 8.

PRESIDENT: Hermann Grossman.

(Whereupon the accused Hermann Grossman arose.)

PRESIDENT: State your name.

ACCUSED HERMANN GROSSMAN: Hermann Grossman.

PRESIDENT: Your age.

ACCUSED HERMANN GROSSMAN: 45 years old.

PRESIDENT: Your residence.

ACCUSED HERMANN GROSSMAN: Breslau

PRESIDENT: Nationality.

ACCUSED HERMANN GROSSMAN: German.

PRESIDENT: Your status.

ACCUSED HERMANN GROSSMAN: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 9.

PRESIDENT: Heinrich Hackmann.

(Whereupon the accused Heinrich Hackmann arose.)

PRESIDENT: State your name.

ACCUSED HEINRICH HACKMANN: Heinrich Hackmann.

PRESIDENT: Your age.

ACCUSED HEINRICH HACKMANN: 33 years old.

PRESIDENT: Your residence.

ACCUSED HEINRICH HACKMANN: Berlin.

PRESIDENT: Your status.

ACCUSED HEINRICH HACKMANN: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 10.



PRESIDENT: Gustav Heigel.

(Whereupon the accused Gustav Heigel arose.)

PRESIDENT: State your name.

ACCUSED GUSTAV HEIGEL: Gustav Heigel.

PRESIDENT: Your age.

ACCUSED GUSTAV HEIGEL: 54 years old.

PRESIDENT: Your residence.

ACCUSED GUSTAV HEIGEL: Rautenberg, East Prussia.

PRESIDENT: Your nationality.

ACCUSED GUSTAV HEIGEL: German.

PRESIDENT: Status.

ACCUSED GUSTAV HEIGEL: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 11.

PRESIDENT: Hermann Helbig.

(Whereupon the accused Hermann Helbig arose.)

PRESIDENT: State your name.

ACCUSED HERMANN HELBIG: Hermann Helbig.

PRESIDENT: Your age.

ACCUSED HERMANN HELBIG: 44 years old.

PRESIDENT: Your residence.

ACCUSED HERMANN HELBIG: Apolda in Thuringen.

PRESIDENT: Your nationality.

ACCUSED HERMANN HELBIG: German.

PRESIDENT: Your status.

ACCUSED HERMANN HELBIG: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 12.

PRESIDENT: Edwin Katzen Ellenbogen.

(Whereupon the accused Edwin Katzen Ellenbogen arose.)

PRESIDENT: State your name.

ACCUSED EDWIN KATZEN ELLENBOGEN: Edwin Katzen Ellenbogen,  
Doctor.

PRESIDENT: Your age.

ACCUSED EDWIN KATZEN ELLENBOGEN: 65.

PRESIDENT: Your residence.

ACCUSED EDWIN KATZEN ELLENBOGEN: Praha in Czechoslovakia.

PRESIDENT: Your nationality.

ACCUSED EDWIN KATZEN ELLENBOGEN: I was an American  
citizen but since I have been more than five years away from there,  
I suppose I have lost my citizenship.

PRESIDENT: Status.

ACCUSED EDWIN KATZEN ELLENBOGEN: I am an internee and  
defendant in this court.

PRESIDENT: As a means of identification, I assign you Placard  
Number 13.

PRESIDENT: Josef Kestel.

(Whereupon the accused Josef Kestel arose.)

PRESIDENT: State your name.

ACCUSED JOSEF KESTEL: Josef Kestel.

PRESIDENT: Your age.

ACCUSED JOSEF KESTEL: 42.

PRESIDENT: Your residence.

ACCUSED JOSEF KESTEL: Weimar.

PRESIDENT: Your nationality.

ACCUSED JOSEF KESTEL: German

PRESIDENT: Your status.

ACCUSED JOSEF KESTEL: Civilian internee

PRESIDENT: As a means of identification, I assign you  
Placard Number 14.

PRESIDENT: Ilse Koch.

(Whereupon the accused Ilse Koch arose.)

PRESIDENT: State your name.

ACCUSED ILSE KOCH: Ilse Koch.

PRESIDENT: Your age.

ACCUSED ILSE KOCH: 40.

PRESIDENT: Your residence.

ACCUSED ILSE KOCH: Ludwigsburg.

PRESIDENT: Your nationality.

ACCUSED ILSE KOCH: German.

PRESIDENT: Your status.

ACCUSED ILSE KOCH: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 15.

PRESIDENT: Richard Koehler.

(Whereupon the accused Richard Koehler arose.)

PRESIDENT: State your name.

ACCUSED RICHARD KOEHLER: Richard Koehler.

PRESIDENT: Your age.

ACCUSED RICHARD KOEHLER: 31.

PRESIDENT: Your residence.

ACCUSED RICHARD KOEHLER: Berlin.

PRESIDENT: Your nationality.

ACCUSED RICHARD KOEHLER: German

PRESIDENT: Your status.

ACCUSED RICHARD KOEHLER: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 16.

PRESIDENT: Hubert Krautwurst.

(Whereupon the accused Hubert Krautwurst arose.)

PRESIDENT: State your name.

ACCUSED HUBERT KRAUTWURST: Hubert Krautwurst.

PRESIDENT: Your age.

ACCUSED HUBERT KRAUTWURST: 23 years old.

PRESIDENT: Your residence.

ACCUSED HUBERT KRAUTWURST: Oppeln, Upper Silesia.

PRESIDENT: Your nationality.

ACCUSED HUBERT KRAUTWURST: German.

PRESIDENT: Your status.

ACCUSED HUBERT KRAUTWURST: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 17.

PRESIDENT: Hans Merbach.

(Whereupon the accused Hans Merbach arose.)

PRESIDENT: State your name.

ACCUSED HANS MERBACH: Hans Erich Merbach.

PRESIDENT: Your age.

ACCUSED HANS MERBACH: 37 years old.

PRESIDENT: Your residence.

ACCUSED HANS MERBACH: Gotha.



PRESIDENT: Your nationality.

ACCUSED HANS MERBACH: German.

PRESIDENT: Your status.

ACCUSED HANS MERBACH: Civilian internee in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 18.

PRESIDENT: Peter Merker.

(Whereupon the accused Peter Merker arose.)

PRESIDENT: State your name.

ACCUSED PETER MERKER: Peter Merker.

PRESIDENT: Your age.

ACCUSED PETER MERKER: 57 years old.

PRESIDENT: Your residence.

ACCUSED PETER MERKER: Beuthen, Upper Silesia.

PRESIDENT: Your nationality.

ACCUSED PETER MERKER: German.

PRESIDENT: Your status.

ACCUSED PETER MERKER: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 19.

PRESIDENT: Wolfgang Otto.

(Whereupon the accused Wolfgang Otto arose.)

PRESIDENT: State your name.

ACCUSED WOLFGANG OTTO: Otto, Wolfgang.

PRESIDENT: Your age.

ACCUSED WOLFGANG OTTO: 35 years old.

PRESIDENT: Your residence.

ACCUSED WOLFGANG OTTO: Neuensee, Upper Silesia.

PRESIDENT: Your status.

ACCUSED WOLFGANG OTTO: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 20.

PRESIDENT: Hermann Pister.

(Whereupon the accused Hermann Pister arose.)

PRESIDENT: State your name.

ACCUSED HERMANN PISTER: Hermann Pister.

PRESIDENT: Your age.

ACCUSED HERMANN PISTER: 62 years old.

PRESIDENT: Your residence.

ACCUSED HERMANN PISTER: Weimar/Buchenwald.

PRESIDENT: Your nationality.

ACCUSED HERMANN PISTER: German.

PRESIDENT: Your status.

ACCUSED HERMANN PISTER: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 21.

PRESIDENT: Emil Pleissner.

(Whereupon the accused Emil Pleissner arose.)

PRESIDENT: State your name.

ACCUSED EMIL PLEISSNER: Emil Pleissner.

PRESIDENT: Your age.

ACCUSED EMIL PLEISSNER: 33 years old.

PRESIDENT: Your residence.

ACCUSED EMIL PLEISSNER: Hof in Bavaria.

PRESIDENT: Your status.

ACCUSED EMIL PLEISSNER: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 22.

PRESIDENT: Guido Reimer.

(Whereupon the accused Guido Reimer arose.)

PRESIDENT: State your name.

ACCUSED GUIDO REIMER: Guido Reimer.

PRESIDENT: Your age.

ACCUSED GUIDO REIMER: 46 years old.

PRESIDENT: Your residence.

ACCUSED GUIDO REIMER: Trautenau.

PRESIDENT: Your nationality.

ACCUSED GUIDO REIMER: German - in former times a  
Czechoslovakian.

PRESIDENT: Your status.

ACCUSED GUIDO REIMER: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 23.

PRESIDENT: Helmut Roscher.

(Whereupon the accused Helmut Roscher arose.)

PRESIDENT: State your name.

ACCUSED HELMUT ROSCHER: Helmut Roscher.

PRESIDENT: Your age.

ACCUSED HELMUT ROSCHER: 29 years old.

PRESIDENT: Your residence.

ACCUSED HELMUT ROSCHER: Hottelstedt.

PRESIDENT: Your nationality.

ACCUSED HELMUT ROSCHER: German.

PRESIDENT: Your status.

ACCUSED HELMUT ROSCHER: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 24.

PRESIDENT: Hans Schmidt.

(Whereupon the accused Hans Schmidt arose.)

PRESIDENT: State your name.

ACCUSED HANS SCHMIDT: Schmidt, Hans, Herman, Theodore.

PRESIDENT: Your age.

ACCUSED HANS SCHMIDT: 47 years old.

PRESIDENT: Your residence.

ACCUSED HANS SCHMIDT: Hoexter.

PRESIDENT: Your nationality.

ACCUSED HANS SCHMIDT: German.

PRESIDENT: Your status.

ACCUSED HANS SCHMIDT: Internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 25.

PRESIDENT: Max Schobert.

(Whereupon the accused Max Schobert arose.)

PRESIDENT: State your name.

ACCUSED MAX SCHOBERT: Max Schobert.

PRESIDENT: Your age.

ACCUSED MAX SCHOBERT: 42.

PRESIDENT: Your residence.

ACCUSED MAX SCHOBERT: Weimar/Buchenwald.

PRESIDENT: Your nationality.

ACCUSED MAX SCHOBERT: German



PRESIDENT: Your status.

ACCUSED MAX SCHOBERT: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 26.

PRESIDENT: Albert Schwartz.

(Whereupon the accused Albert Schwartz arose.)

PRESIDENT: State your name.

ACCUSED ALBERT SCHWARTZ: Schwartz, Albert.

PRESIDENT: Your age.

ACCUSED ALBERT SCHWARTZ: 42.

PRESIDENT: Your residence.

ACCUSED ALBERT SCHWARTZ: Danzig.

PRESIDENT: Your nationality.

ACCUSED ALBERT SCHWARTZ: German.

PRESIDENT: Your status.

ACCUSED ALBERT SCHWARTZ: Prisoner in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 27.

PRESIDENT: Walter Wendt.

(Whereupon the accused Walter Wendt arose.)

PRESIDENT: State your name.

ACCUSED WALTER WENDT: George Walter Wendt.

PRESIDENT: Your age.

ACCUSED WALTER WENDT: 40.

PRESIDENT: Your residence.

ACCUSED WALTER WENDT: Leipzig.

PRESIDENT: Your status.

ACCUSED WALTER WENDT: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 28.

PRESIDENT: Friedrich Wilhelm.

(Whereupon the accused Friedrich Wilhelm arose.)

PRESIDENT: State your name.

ACCUSED FRIEDRICH WILHELM: Wilhelm, Friedrich.

PRESIDENT: Your age.

ACCUSED FRIEDRICH WILHELM: 57 years old.

PRESIDENT: Your residence.

ACCUSED FRIEDRICH WILHELM: Eberswalde.

PRESIDENT: Your nationality.

ACCUSED FRIEDRICH WILHELM: German.

PRESIDENT: Your status.

ACCUSED FRIEDRICH WILHELM: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 29.

PRESIDENT: Hans Wolf.

(Whereupon the accused Hans Wolf arose.)

PRESIDENT: State your name.

ACCUSED HANS WOLF: Hans Wolf.

PRESIDENT: Your age.

ACCUSED HANS WOLF: 45 years old.

PRESIDENT: Your residence.

ACCUSED HANS WOLF: Nuernberg.

PRESIDENT: Your status.

ACCUSED HANS WOLF: Civilian internee in Dachau.

PRESIDENT: As a means of identification, I assign you  
Placard Number 30.

PRESIDENT: Franz Zinecker.

(Whereupon the accused Franz Zinecker arose.)

PRESIDENT: State your name.

ACCUSED FRANZ ZINECKER: Franz Zinecker.

PRESIDENT: Your age.

ACCUSED FRANZ ZINECKER: 47 years old.

PRESIDENT: Your residence.

ACCUSED FRANZ ZINECKER: Reichenberg.

PRESIDENT: Your nationality.

ACCUSED FRANZ ZINECKER: German from Czechoslovakia.

PRESIDENT: Your status.

ACCUSED FRANZ ZINECKER: Civilian internee.

PRESIDENT: As a means of identification, I assign you  
Placard Number 31.

You are all advised that under the law of Military Government  
you are entitled in this court to the following:

1. To have, in advance of trial, a copy of the charges upon  
which you will be tried.
2. To be present at your trial, to give evidence, and to examine  
or cross examine any witness.
3. To consult counsel before trial and to conduct your own  
defense or to be represented at the trial by a lawyer of your own  
choice, subject to the right of this court to debar any person  
from appearing before it.

4. In any case in which a sentence of death may be imposed to be represented by a member or civilian attorney of the United States Forces and such other counsel as the accused may designate.

5. To bring with you to this trial such material witnesses in your own defense as you may wish, or to have them summoned by the court, at your request, if practicable.

6. To apply to the court for an adjournment where necessary to enable you to prepare your defense.

7. To have the proceedings translated when you are otherwise unable to understand the language in which they are conducted.

8. In the event of conviction, to file a petition for review to the appointing authority setting forth grounds why the findings and sentence should be set aside or modified.

Do the accused understand.

DEFENSE COUNSEL: The accused understand their rights.

PRESIDENT: Are the accused now ready for trial in this case?

DEFENSE COUNSEL: The accused are ready for trial in this case, but call the attention of the court to Right Number 6, regarding an adjournment, and state that they reserve that right so that after the prosecution's case is completed, if it is necessary for an adjournment, we will request it.

PRESIDENT: Has a copy of the charge sheet been served upon the accused prior to trial.

DEFENSE COUNSEL: All accused have been served with a copy of the Charge Sheet before trial.

PRESIDENT: Were the accused photographed and fingerprinted at the time they were served with the Charge Sheet?



PROSECUTION: That was done after they were served with the Charges. Fingerprints were taken and they were photographed prior to that time and the Forms 38 have been accomplished.

PRESIDENT: The prosecution will now introduce in evidence the Forms 38.

PROSECUTION: I hand the reporter WCG Forms 38 on each of the accused and request that they be marked for identification.

(The documents referred to were marked Prosecution Exhibits 1A to 1EE for identification.)

PROSECUTION: The prosecution offers at this time in evidence the accomplished Forms WCG Number 38, dated 10 April 1947 on each one of the accused and asks that the entire block be marked P-1 and the first being marked P-1A and each subsequent one B, C, D and so on, doubling up the alphabet until each individual sheet has been assigned a number in alphabetical order.

PRESIDENT: Prosecution Exhibits P-1A to P-1EE are received in evidence and will be made a part of the record.

(The documents heretofore marked Prosecution Exhibits Nos. 1A to 1EE inclusive for identification, were received in evidence as Prosecution Exhibit Nos. 1-A to 1-EE, inclusive, are attached hereto, and made a part of the record.)

PRESIDENT: I will now read to the accused the Charge and Particulars.

(Whereupon the President read the charges and particulars.)

PRESIDENT: Do the accused understand the Charge and Particulars?

DEFENSE COUNSEL: The accused understand the Charge and Particulars.

PRESIDENT: How do the accused plead?

DEFENSE COUNSEL: As Chief Defense Counsel, I wish to enter a plea of Not Guilty for all of the accused.

PRESIDENT: Court will recess until 1:30.

(Whereupon at 1205 hours court recessed until 1330 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution, all the personnel of the defense and all the accused are present.

PRESIDENT: Does the prosecutor desire to make an opening statement?

DEFENSE COUNSEL: Before the prosecution makes an opening statement the defense respectfully requests the court's permission to present a motion.

PRESIDENT: Permission granted.

DR. WACKER: As German defense counsel I make the motion to have this trial take place only against a certain of the accused who are mentioned by name in the charge sheet. In the charge sheet it is said that in addition to the persons mentioned by name the charge is directed also against various other persons.

I am of the opinion that the charge sheet in this form is improper. It is possible to have a trial against people not present, but at least these people have to be mentioned by name. This is especially important for this trial because the charge sheet charges a common design. Therefore, these people here, the accused, are to be made responsible for crimes of other people whom they do not even know by name. Furthermore, all these people not mentioned by name in the charge sheet are not represented here. They are not defended here. We do not know whether the interests of the people not mentioned by name are not contradictory to the interests of the people who are mentioned by name in the charge sheet.

Furthermore I would like to point out that the trial guide makes it necessary to observe certain forms for all accused. They have to be asked certain questions--whether they are ready for trial, etc.--and this has not been done for those not mentioned by name in this trial.

PROSECUTION: May it please the court, in view of the policy of which has been recently announced concerning trying persons in absentia, the prosecution has no objection to striking of the words, "and diverse other persons" from the charge sheet. However, the prosecution does wish to make its position perfectly clear, that it does not agree with the defense counsel when he states that it would thereby make these 31 accused responsible for the acts of others. According to the theory of this case, which will be explained in detail at length later, we adopt an utterly different position.

PRESIDENT: It is proper pleading to include as defendants in a charge alleging common design diverse unknown persons who, if identified, may be implicated therein.

The motion is denied.

CAPTAIN GROTH: If it please the court, the matter which I am about to bring to the attention of the court is a matter of great concern to the defense as well as to all of the accused.

The defense does not choose to find itself in a position for having neglected to urge this at the proper time.

The accused are charged with victimizing citizens of the United States of America, then captured and unarmed prisoners of war. They seek to defend themselves against this charge in particular. Under their plea of not guilty every material fact stated in the particulars is placed in issue. Particularly is there placed in issue the statement, "The operation included the wrongful and unlawful subjection of citizens of the United States of America who were then and there in the custody of the then German Reich, and members of the armed forces of nations then at war with the then

German Reich who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich , to killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such persons being unknown but aggregating many thousands."

We are informed by a book published or prepared by the prosecution that when the American Army overran Buchenwald it captured tons of documents. Official sources in Washington and elsewhere have been available to the prosecution for a long time. We can hardly believe that we are expected to go to trial when at least a number of Americans victimized are not given to us. We do not know now and have not been informed whether there were two Americans and 50,000 other nationalities or 49,000 Americans and two or three other nationalities. The defense feels that they are entitled to have further information on that subject.

On April first of this year it served the prosecution with a request for a bill of particulars. I ask the permission of the court to read this bill of particulars.

PRESIDENT: Permission granted.

CAPTAIN GROH: "REQUEST FOR BILL OF PARTICULARS

In order that the Defense Counsel may prepare an adequate defense to the offense alleged to have been committed by the accused in Case No. 00-50-9, allegedly against citizens of the United States of America, it is requested that the Prosecution furnish at the earliest practicable date a written Bill of particulars indicating therein:

1. The number, identity, and present whereabouts of the citizens of the United States of America, alleged in the Charge Sheet herein to have been then and there surrendered and unarmed prisoners of war, who were subjected to killings, beatings, tortures, starvation and indignities during the period 1 September 1939 to 9 December 1941 in Buchenwald, its camps, sub-camps, and out-details, clearly stating in detail the place or places at which, and the inclusive dates during which the alleged American victims or victim, naming them, were subjected to the killings, beatings, tortures, starvation, abuses and indignities alleged in the Charge Sheet.

2. The number, identity, and present whereabouts of the citizens of the United States of America, alleged in the Charge Sheet herein to have been then and there surrendered and unarmed prisoners of war, who were subjected to killings, beatings, tortures, starvation and indignities during the period of 9 December 1941 to 11 April 1945 in



in Buchanwald, its camps, subcamps, and out-details, clearly stating in detail the places or place at which and the inclusive dates during which the alleged American victim or victims, naming them, were subjected to the killings, beatings, tortures, starvation, abuses and indignities alleged in the Charge Sheet.

CARL E. WHITNEY  
Major, CE  
Defense Counsel"

This is of particular importance because the accused are being tried by an American military court whose jurisdiction they have unsuccessfully challenged.

With reference to our request to the Bill of Particulars, a few days after it was received by the prosecution we received an informal message saying that it did not intend to turn those particulars over to the defense.

We cannot believe that the great government of the United States of America, during the past two years has been so unsolicitous concerning the welfare of its soldiers that it is unwilling to furnish the defense with the particulars named in the request. We have not been furnished with the name of one single American victim. The defense feels that the complete list, as far as it is available in the records of the United States, should be furnished to the defense so that they may communicate with the alleged American victims and possibly use them as witnesses to contradict the allegations in the charge sheet.

We ask the court to direct the prosecution to comply with the request for the Bill of Particulars. It cannot possibly do the prosecution any harm, unless the prosecution has in fear that the victims would deny the allegations in the particulars as they refer to them. We submit that the request is timely, that it is just and that it is fair.

PROSECUTION: May it please the court, in spite of the tons of documents referred to by counsel and in spite of the greatness of the

United States, we are unfortunately unable to comply with the request of counsel with respect to furnishing the whereabouts of the victims. They were last seen, may it please the court, being carted into the crematories and from there they went up the chimney in smoke and all the power of the United States and all the documents in Augsburg and elsewhere cannot tell which way they went. We are sorry that we cannot furnish the whereabouts but we fail to see that it is material whether one American or 50,000 Americans were incarcerated in Buchenwald. The crime would be just as heinous if one American were there and we fail to see where it makes any difference whether it be an American as a victim, a Pole, a Czech, a Russian or a Frenchman. We submit that these particulars have been passed upon. They are sufficient in at least two other cases and they have been held sufficient and we submit that they are as particular and specific as the nature of the offense admits of and that is the only rule of pleading that must be satisfied.

CAPTAIN GROTH: I should like to ask the prosecution whether we are to understand by that that he proposes to furnish proof that they were citizens--that these people that went up in smoke were citizens of the United States, unarmed prisoners of war.

PROSECUTION: May it please the court, I don't desire to disclose my evidence at this time. It will be submitted to the court at the proper time.

PRESIDENT: Subject to objection by any member of the court the particulars that accompany the charge are deemed sufficient to apprise the accused of what the prosecution expects to prove.

The motion is denied.

Prosecution continue.

PROSECUTION: The prosecution desires to make a short opening statement.

May it please the court, two years ago today the victorious troops of the Third United States Army overran the concentration camp of Buchenwald and thereby brought to a close a chapter of infamy and sadism which has heretofore been unparalleled in recorded history. We expect the evidence to show that these 31 accused, acting in pursuance of a common design, did aid, abet, or participate in subjecting the victims named in the charge sheet to killings, tortures, starvation, beatings and other indignities. We expect the evidence to show, may it please the court, that Buchenwald Concentration Camp was established in the year of 1937 and that after hostilities began the influxion of prisoners increased in the camp accordingly as the Third Reich overran various countries throughout Europe.

We expect the evidence to show, may it please the court, that the victims that were taken into Buchenwald were composed of, on the one hand, the intelligentsia of Europe who were opposed to Nazi Tyranny-- prisoners of war of nations then at war with the Third German Reich who were not willing to don the Nazi uniform and fight for the Third Reich and finally slave workers who had been forced into Germany into the sweat shops, the armament plants and the many other industries which were seeking to foster the war effort of Germany, who refused and who made efforts to delay the production that was then sought in the Third Reich.

We expect the evidence to show this court that these victims were subjected to conditions which are practically indescribable. That the conduct of the SS troops and the SS officers on the one hand and of their stooges who were the capes on the other hand were such as to bring about not only a physical collapse on the part of the prisoner, but a mental and moral degradation.

Time does not permit of a listing of the offenses that daily occurred in Buchenwald.

Our order of proof will be substantially to show, first, a general picture of the conditions that prisoners were subjected to and this general picture will be as to conditions as they existed in the Buchenwald Camp itself. We also expect to show, next, the conditions that existed in the out camps of Buchenwald which were approximately 103 in number. Again, time does not permit the showing of the conditions as they existed in each one of these 103 camps, but we expect that the evidence will show the conditions in enough of these 103 camps as will give the court an intelligent picture of the conditions that prevailed in all of the camps.

Then we will expect the evidence to show the court the individual participation of each one of these 31 accused. How their conduct fitted into this plan of extermination.

Under the theory of this case, may it please the court, in order to show the guilt of, for instance, Katzen-Ellebogen or Koehler or any one of the other 31 accused it is not necessary to show that Katzen-Ellebogen injected a prisoner and caused his death in order to establish his guilt, or that Koehler beat prisoners to death in order to establish his guilt. It is sufficient, may it please the court, to show, and we expect the evidence will show the existence of a common design to subject these prisoners to beatings to tortures, to killings and indignities, and after that to show the participation that each one of these 31 accused had in that scheme or design--how their conduct fitted into this plan of extermination.



Under the theory of this case, may it please the court, in order to show the guilt of, for instance, Katzen-Ellenbogen or Koehler, or any one of the other thirty-one accused, it is not necessary to show that Katzen-Ellenbogen infected a prisoner and caused his death in order to establish his guilt; or that Koehler beat prisoners to death, in order to establish his guilt. It is sufficient, may it please the court, to show--and we expect that the evidence will show--the existence of a common design to subject these prisoners to beatings, to tortures, to killings, and to indignities, and after that to show the participation that each one of these thirty-one accused had in that scheme or design.

The tortured souls of literally thousands of the victims who were in Buchenwald demand justice, and justice in this case can only be satisfied by the hangman's noose.

The prosecution calls as its first witness  
Dr. Harry Phillipe.

DEFENSE COUNSEL: The defense requests that the President of the court announce that if there are any witnesses, possible prosecution witnesses, in the courtroom, they should leave.

PRESIDENT: If there are any possible witnesses in this case that are present in the courtroom, they will retire.

HARRY PHILLIPE, called as a witness by the prosecution, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY PROSECUTION:

Q Doctor, will you please state your full name?

(Phillipe - Direct)

A Dr. Harry Phillipe.

Q Where do you live, Dr. Phillipe?

A Starnberg, near Munich.

Q What is your present occupation, Doctor?

A I am trustee of the Military Government.

Q Doctor, were you ever a prisoner in Buchenwald concentration camp?

A Yes.

Q When did you first arrive there as a prisoner?

A 17th of November, 1944.

Q How long did you remain in Buchenwald concentration camp as a prisoner?

A Until the 11th of April, 1945, as a prisoner.

Q And after the liberation did you continue to remain around the vicinity of Buchenwald concentration camp?

A I stayed in Camp Buchenwald until the 14th of May, 1945.

PROSECUTION: I hand the reporter a roll of film and ask him to mark it Prosecution Exhibit 2 for identification.

(The film referred to was marked Prosecution Exhibit 2 for identification.)

PROSECUTION: I hand the reporter a roll of film and ask him to mark it Prosecution Exhibit 3 for identification.

(The film referred to was marked Prosecution Exhibit 3 for identification.)

QUESTIONS BY PROSECUTION:

Q Doctor, I hand you a roll of film which has been

(Phillipe - Direct)

marked Prosecution Exhibit 2 for identification and ask you to state whether or not you have seen that roll of film displayed on a screen. (Handing exhibit to witness.)

A Yes.

Q When did you see that?

A One week ago today.

Q What were the pictures portrayed on the screen that you saw?

A In this movie I saw pictures of the concentration camp Buchenwald, with the exception of a few pictures which referred to the camp Thelma-Leipzig.

Q And were the scenes that you saw on the screen produced from the film marked Prosecution Exhibit 2 for identification true and correct representations of the scenes as they existed there in Buchenwald?

A Without any exception, a correct reproduction.

Q Doctor, I hand you a roll of film which has been marked Prosecution Exhibit 3 for identification and ask you to state whether or not you have seen the content of that film. (Handing exhibit to witness.)

A Yes, I saw the contents of this film.

Q I will ask you to state what the content of that film was.

A Pictures and scenes from the concentration camp Buchenwald.

Q And approximately, Doctor, what time were these pictures of Buchenwald taken?

(Phillips - Direct)

A These pictures were taken approximately three to four days after the arrival of the Americans in Camp Buchenwald on the 11th of April, 1945.

Q And were the scenes that you saw from that film which has been marked Prosecution Exhibit 3 for identification true and correct representations of the scenes as they existed there in Buchenwald?

A It was so without any exception.

Q One other question, Doctor: Approximately what was the date of the taking of the film which was marked Prosecution Exhibit 2 for identification?

A This movie, too, was taken at the same time.

PROSECUTION: No further questions from this witness, may it please the court.

CROSS EXAMINATION

QUESTIONS BY CAPTAIN LEWIS:

Q Dr. Phillipe, were you present in Buchenwald when these pictures were taken?

A I was present for the largest part.

Q Did you not testify that you left Buchenwald on the 11th of April?

A No. Buchenwald was liberated on the 11th of April, 1945, and I was liberated with all the others on 11th of April, 1945; but I stayed on my block, No. 34, until the 14th of May, 1945.

Q And did you actually see photographers taking pictures in Buchenwald?

(Phillipe - Cross)



A Yes. For five weeks I was a guide of Americans and Englishmen through the camp, and in this capacity I was present when most of these pictures were taken.

Q And can you identify the film that you saw as being the same pictures that were taken while you were present as a guide?

A Yes. The pictures in this movie are exactly the same as I have seen in Buchenwald, and I will never forget these scenes for the rest of my life. And they were taken right after the liberation.

Q And did those pictures represent the same conditions that existed before the liberation?

A Yes. Especially as much as it referred to the pictures from the crematory and the small camp.

CAPTAIN LEWIS: No further questions.

PROSECUTION: No further questions.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and withdrew.)

PROSECUTION: The prosecution calls as its second witness Lieutenant Jean Cerutti.

JEAN CERUTTI, called as a witness by the prosecution, being first duly sworn, testified through French and German interpreters as follows:

DIRECT EXAMINATION

QUESTIONS BY PROSECUTION:

Q What is your name, please?

A Cerutti, Jean.

Q What is your occupation, Mr. Cerutti?

(Cerutti - Direct)

A Investigating officer of War Crimes.

Q And what is your rank?

A Second Lieutenant.

Q Lieutenant Cerutti, where do you live?

A In Fontainebleau; Rue des Sablons 43.

Q Where are you on duty at the present time?

A In Dachau.

Q Were you ever a prisoner in Buchenwald concentration camp or any of its by-camps?

A Yes.

Q Please state the name of the camp or camps to the court.

A Leipzig-Thekla.

Q Was that an out-camp of Buchenwald?

A Yes.

Q When did you first come to Leipzig-Thekla?

A Beginning of March 1945.

Q How long did you remain in Leipzig-Thekla?

A Until 17 April, the day of liberation.

Q I hand you a roll of film which has been marked Prosecution Exhibit 2 for identification and ask you to state whether or not you have seen the content of that film shown on a screen. (Handing exhibit to witness.)

A Yes.

Q Will you tell the court whether or not there are any scenes of Leipzig-Thekla portrayed in that film?

A Yes.

Q Were the pictures that you saw from the film which

(Cerutti - Direct)

has been marked Prosecution Exhibit 2 for identification true and correct representations of the scenes that existed there at Leipzig-Thekla when you were there?

A Yes.

PROSECUTION: No further questions.

CROSS EXAMINATION

QUESTIONS BY CAPTAIN LEWIS:

Q Do you know when these pictures were taken at Leipzig-Thekla?

A No.

CAPTAIN LEWIS: Nothing further.

PROSECUTION: No further questions.

PRESIDENT: No questions by the court. The witness is excused.

(Whereupon the witness was excused and withdrew.)

PROSECUTION: At this time, may it please the court, we offer in evidence the film which has been marked Prosecution Exhibit 2 for identification and the film which has been marked Prosecution Exhibit 3 for identification, and ask leave of the court to have them later withdrawn from the case and returned to the archives of the War Department, upon a proper substitution of the film. May it please the court, I think the only way they can be portrayed to the court is by a showing of the film. We make the offer for a showing of the film which has been marked Prosecution Exhibit 2 for identification and the film which has been marked Prosecution Exhibit 3 for identification. I would like to say also, may it please the court, that this film was shown to the defense counsel yesterday.

CAPTAIN LEWIS: I assume that there is film in here, because your witnesses have answered to that. The defense objects to the admission of these pictures in evidence on the ground that no proper foundation has yet been laid for the introduction of these exhibits. The first witness, Dr. Phillipe, testified only that the pictures of the crematory and the small camp were the only pictures which represented the conditions as they existed before the accused, or any of them, left the camp. The second witness testified that he did not know when the pictures were taken, or, for that matter, whether they were even taken. We further contend that these pictures were taken three or four days after the entry of the American troops in Buchenwald, and it is impossible for conditions at that time to represent what actually had occurred back in 1939 up until the date of the liberation.

Furthermore, these films carry a sound track, and we contend that the sound track is not proper evidence before this court, because the person who made the sound track is not sworn as a witness, and his explanation of the scenes is prejudicial to the interests of the accused. For these reasons we object to the admission of the two proposed exhibits.



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LAW MEMBER: Are these official War Department films?

PROSECUTION: Yes, sir.

LAW MEMBER: Do the containers have any identification marks on them?

PROSECUTION: Here they are, sir.

(Prosecution handed the film containers to the Court)

CAPT. LEWIS: If it please the Court, in connection with the question that has just been raised by the law member, we will concede that the containers carry stamps and seals of the War Department, but the showing of the picture does not bear the imprint of the Signal Corps of the United States Army. I have seen the pictures myself.

PROSECUTION: May it please the Court, it would not make any difference whether the Signal Corps or John Doe or Richard Roe took these pictures. The only question to be decided is whether or not they are true and correct representations of the scenes as they existed there at Buchenwald. The witnesses have laid that predicate. They have said they were at Buchenwald and the out-camp Leipzig-Thesla. Regardless of who took the pictures they have apparently received the sanction of the War Department with the sound track and all because they were sent from the Civil Affairs Division of the War Department to the Prosecution.

PRESIDENT: The objection is overruled. The films, Prosecution Exhibits P-2 and P-3 will be received in evidence and the Court will give to the evidence such probative value that it deems fit. Permission is granted to withdraw the films after the showing. The Court desires that the two witnesses Phillips and Cerutti be present at the showing of the films.

(The documents heretofore marked Prosecution Exhibits P-2 and P-3 for identification were received in evidence as Prosecution Exhibits P-2 and P-3 are withdrawn and substitutes made a part of the record.)

PROSECUTION: May it please the Court, at this time we would like to have permission to have the courtroom cleared so that the necessary arrangements may be made for the showing of the film.

PRESIDENT: The Court will recess.

(Whereupon the Court recessed at 1430 hours.)

(Whereupon the Court reconvened at 1450 hours.)

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the Court, let the record show that all the personnel of the Court, all the personnel of the Prosecution, all the personnel of the Defense, and all the accused are present.

PRESIDENT: The placards bearing a number were issued to the accused as a means of identification. They will be worn while the Court is in session. This is the responsibility of the Chief Defense Counsel.

DEFENSE COUNSEL: May I ask the Court if it will refuse permission of the photographers to take any pictures of the accused with their numbers on. The photographers have had wide leniency in taking photographs but we would like to call a halt to their taking pictures while the accused are wearing their numbers.

PRESIDENT: The request of the Defense is denied. Let the record show that the witnesses Phillips and Cerutti were present in the Court during the showing of the film about to take place.

(Whereupon the films, Prosecution Exhibits P-2 and P-3 were shown to the Court and the recorded sound track was as follows:

"This is a pictorial record of the almost unprecedented crimes perpetrated by the Nazis at the Buchenwald Concentration Camp. The story in written form is contained in the official report of the Prisoner of War Displaced Persons Division of the United States Group Control Council forwarded from Supreme Allied headquarters to the War Department in Washington. It states that 1,000 boys under 14 years of age were included among the 20,000 still alive among the camp survivors. That the survivors are males only. The recent death rate was about 200 a day.

"Nationalities and prison numbers were tattooed on the stomachs of the inmates. The report lists the surviving inmates as representing every European nationality. The report says that the camp was founded when the Nazis came to power in 1933 and has been in continuous operation ever since and that the largest population dates from the beginning of the present war. One estimate put the camp's normal complement at 80,000. In the official report the Buchenwald Concentration Camp is termed an extermination factory and the means of extermination: Starvation complicated by hard work, abuse, beatings and tortures, incredibly crowded sleeping conditions and sicknesses of all types. By these means - the report continues - tens of thousands of the best leadership personnel of Europe have been exterminated.

These bodies are stacked one upon the other outside the crematory. The Nazis maintained a building for vivisection of prisoners, medical experiments and the use of prisoners as guinea pigs. In particular, new toxins and anti-toxins were tried out on the prisoners. It was said that few who entered the extermination building ever emerged alive.

This is one of the weapons used by the SS Guards.

This is the body disposal plant. There inside are the ovens that gave the crematory a maximum disposal capacity of 400 bodies per 10 hour day. Gold filled teeth were extracted from the bodies before incineration. The ovens are extremely modern in design and are heated by coke and were made by a firm that specialized in baking ovens. The firm name is clearly described. All bodies were finally reduced to bone ash.

Twelve hundred civilians walked from neighboring Weimar on a forced tour of the camp. There were many smiling faces at first. The Germans acted as though something were being staged for their benefit. One of the first things the German civilians see as they reached the interior of the camp is the parchment display. A table lampshade made of human skin made at the request of an SS Officer's wife. Large skins were used from humans for the painting of pictures, many of them obscene.

Here are two heads which had been shrunk to 1/5th their normal size. These and others are exhibits of Nazi origin shown to the townspeople.

The camera records the changes in the facial expressions as the Weimar citizens leave the parchment display. The tour continues with a forced inspection of the camp living quarters where the stench, filth and misery defy description.

They see the result of the lack of care in a bad case of trench foot and other evidences of horror, brutality, and human indignities. These people are compelled to see what their own Government had perpetrated. The correspondents assigned to the Buchenwald story are given wide notice to see the well fed, well dressed appearance of the German civilian population of the Weimar area."

(Whereupon the film was shown again and the sound track translated to the accused in the German language.)

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PROSECUTION: May we have a short recess, at this time, while the seats are changed and the screen is removed?

PRESIDENT: The Court will recess.

(Whereupon at 1325 hours the Court recessed.)



(Whereupon court reconvened at 1535 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution and defense are present and all of the accused are present.

We ask at this time, may it please the court, that Dr. Harry Phillipe and Lieutenant Jean Cerutti be excused from further attendance at this trial.

PRESIDENT: Any objection by the defense?

DEFENSE COUNSEL: One of the defense attorneys has requested that Lieutenant Cerutti be returned to the stand.

PROSECUTION: Lieutenant Cerutti.

JEAN CERUTTI, called as a witness by the prosecution, having been previously duly sworn, resumed the stand and testified further through French and German interpreters as follows:

PROSECUTION: Lieutenant Cerutti, you are reminded you are still under oath.

CROSS EXAMINATION (Continued)

QUESTIONS BY DR. KOFF:

Q Mr. Cerutti, did you recognize in the movies which were just shown to you movies from the camp Leipzig-Thakla?

A Yes.

DR. KOFF: Thank you.

DEFENSE COUNSEL: No further questions.

PROSECUTION: No questions, sir.

PRESIDENT: No questions by the court. The witness is excused.

(Whereupon the witness was excused and withdrew.)

(Cerutti-Cross)

PROSECUTION: Prosecution calls as its next witness, may it please the court, General Charles Furby.

CHARLES FURBY, called as a witness by the prosecution, being first duly sworn, testified as follows:

(Whereupon the proceedings were translated into the German language.)

PROSECUTION: General Furby, do you wish to testify in French or in English?

THE WITNESS: In English, if the court doesn't mind.

DIRECT EXAMINATION

QUESTIONS BY PROSECUTION:

Q Will you state your full name, please?

A Furby, F-u-r-b-y, Charles.

Q What is your occupation, please?

A I am Director General of Justice for the French Army and I hold the rank of Major General.

Q As Director General of Justice for the French Army have you had an opportunity to ascertain whether there were any Frenchmen detained as prisoners in Buchenwald Concentration Camp?

A I have had that opportunity.

Q Will you explain to the court, please, sir, how you arrived at your information?

A This information has been given to me by the French Minister of Justice who is in charge of war crimes.

Q What was this information that you obtained from the French Ministry of Justice?

A That information is about the number of Frenchmen that have been detained in the present case, -- in the Buchenwald Concentration Camp.

(Furby-Direct)

Q Approximately how many Frenchmen were detained in  
Buchenwald Concentration Camp?

A Well, about 36,000.

Q Have you any compilations as to the number that left France  
to go to Buchenwald and the dates of their departure?

A I have.

Q Will you please tell to the court the information you have  
concerning the departure of Frenchmen for the Concentration Camp  
Buchenwald?

A Well, if the court permits, I will read them because they  
are numbers I haven't by heart.

PRESIDENT: At your discretion, General.

A They are rather dry numbers. Departures of Frenchmen started  
in October 1942. In June 1943 about 1,000 French men and women came  
from France, generally coming from the main prisons in France.

On the 26th of June 1943, about 1,100 evacuees coming from  
Compiègne. Compiègne was the place where the German authorities used  
to take the Frenchmen who were arrested in France before sending those  
prisoners to Germany.

On the 3rd of September 1943, another thousand.

On the 5th of September 1943, 1,000 more, of which there was a  
great number of reserve officers and officers of the active army, of  
the regular army.

On the 16th of September 1943, 1,080 Frenchmen, but unhappily,  
only a few arrived there. About 1,000 died in the trucks in which  
they were shut in.

On the 19th of September 1943, another thousand coming from  
Compiègne and from a place called Fort-du-Ra, which is near Bordeaux.

(Furby-Direct)

On the 28th of October 1943, 1,050.

On the 30th of October 1943, 1,000 coming from Compiègne. These were students from the University of Strasbourg that had been evacuated to Clermont-Ferrand.

On November 1943 another 200 coming from Saarbrücken.

On the 15th of December '43 another thousand coming from Compiègne, but only 800 arrived. 200 died en route.

On the 16th of January 1944, 1,190 coming from Compiègne.

On the 19th of January 1944, 2,000 from Compiègne.

On the 20th of January '44, 1,190 from Compiègne.

24th of January '44, 2,000 from Compiègne.

28th of January '44, 300 coming from Autin, A-u-t-i-n.

29th of January '44, 1,600 coming from Compiègne.

April '44, 1,000 from Compiègne.

On the 14th of May '44, 1,638 coming from Auschwitz.

On the 14th of May '44, 2073 coming from Paris.

In July '44, 500 coming from the south of France in the detachment of Bouches-du-Rhône, the same 500 coming from St. Sulpice.

On the 6th of August '44, 844 coming from Compiègne and composed of men of the Resistance.

15th of August '44, 1,466 coming from Compiègne.

August 20th '44, 1,000 coming from Fresnes. Fresnes is a prison near Paris.

On the 22nd of August '44, 1,000 coming from Compiègne.

September '44, unstated number coming from Belfort.

Plus those numbers I have given the court I can state that since May '43, up to the date of the liberation, approximately three to twenty Frenchmen arrived in this camp of Buchenwald practically every day.

The end of July '44, 34 French and British officers or parachutists arrived in the camp.

(Furby-Direct)



The exact number I can't give because the lists we have have been picked out and we know the number of Frenchmen who have been deported to Germany. The total number is exact but what we can't state is what is the exact number of Frenchmen who came to Buchenwald. But as I stated before, the total number must be approximately 36,000.

Q General Furby, do you have any information at your disposal there concerning the mortality of these Frenchmen that went to Buchenwald?

A The exact mortality I don't have here. From what has been found in the camp -- and that is the German information -- that would be 3,600. But from what the French officers have counted, by the people who have not come back, we may state that with also the people who were killed, Frenchmen who were killed at the liberation when a certain march was ordered by the commandant of the camp, the total number must be at least 10,000.

Q General, were these prisoners taken from one particular walk of life or not?

A Well, they came from every denomination in life but quite a number of them were a part of the intelligent part of the nation. I can state a certain number of names.

Q Who were some of those people, please?

A One of the important ones was Leon Blum, universally known as one of the French Ministers; Mr. Marie, who is actually the Minister of Justice of France; Professor Charles Richet, who is academician of the faculty of medicine, who was one of the greatest men we have in France. We had Professor Balachowsky, who is Director of the Pasteur Institute. We had Mr. Clin, C-l-i-n, who was the director of the National Library; and Mr. Masbureau, who is universally known as a pathologist, -- very well known. The sister of General DeGaulle

was also in Buchenwald. Any number of prominent people of France.

PROSECUTION: No further questions, sir.

CROSS EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q General, did I understand you correctly when you said that of the people that left France you do not know which arrived in Buchenwald and which went to Dachau and which went to Flossenburg?

A We know a certain number as certain in the Buchenwald Camp but we haven't got all the names of the Frenchmen who arrived in that camp.

Q You mentioned some of the people had died en route. They died before they arrived at Buchenwald, is that right?

A Right.

Q Did you ever visit Camp Buchenwald?

A Never.

DEFENSE COUNSEL: No further questions.

QUESTIONS BY DR. WACKER:

Q Is it known to you that part of the Frenchmen who were brought to Euchenwald were kept there only for a short while to be fed and then, on orders, were transferred to other camps?

A That I don't know.

Q Isn't it a mistake on your part that the sister of General De Gaulle has been in Euchenwald? Isn't it correct that this lady had been at the Hotel Dreesen at Bad Godesburg?

A I don't know anything about that.

DR. WACKER: No more questions.

PROSECUTION: No further questions.

PRESIDENT: No questions by the court. The witness is excused.

PROSECUTION: May it please the court, may we have permission for this witness to remain in the courtroom. He will not be called again by the prosecution.

DEFENSE COUNSEL: Defense has no objection.

PRESIDENT: Permission is granted.

(Whereupon the witness was excused.)

PROSECUTION: I hand the reporter a document and ask that it be marked Prosecution's Exhibit No. 4 for identification.

(The document referred to was marked  
Prosecution's Exhibit No. 4 for identification.)

PROSECUTION: Prosecution offers in evidence, may it please the court, as prosecution's Exhibit No. 4, a stipulation entered into between the prosecution and the defense and asks permission to read the stipulation to the court at this time.

PRESIDENT: Prosecution's Exhibit No. 4 will be received in evidence. Permission is granted to read it.

(The document heretofore marked Prosecution Exhibit No. 4 for identification, was received in evidence as Prosecution Exhibit No. 4, is attached hereto and made part of the record.)

(Whereupon the prosecution read Prosecution Exhibit No. 4, a stipulation, followed by a translation into the German language.)

PROSECUTION: May it please the court, the prosecution at this time asks that this document be marked for identification. It is the Buchenwald Camp Report of a Parliamentary Delegation.

(The document referred to was marked Prosecution Exhibit 5 for identification.)

PROSECUTION: Prosecution requests that this document, Atrocities and Other Conditions in Concentration Camps in Germany, a document being the report of a committee requested by Gen. Dwight D. Eisenhower through Chief of Staff George Marshall, presented to the Congress of the United States by Senator Barkley, be marked Prosecution Exhibit 6 for identification.

PRESIDENT: The document will be marked as directed.

(The document referred to was marked Prosecution Exhibit 6 for identification.)

PROSECUTION: With respect to the document which has been marked Prosecution Exhibit 5 for identification, we offer in evidence as Prosecution Exhibit No. 5, so much of that report which begins at the bottom of the page with the first sentence above the fourth paragraph, that is, on Page 5, and terminates at the bottom of page 7. We offer that in evidence at this time and ask permission to read same.

PRESIDENT: Any objection by the defense?

DEFENSE COUNSEL: No objection by the defense.

PRESIDENT: That part of the exhibit offered will be received in evidence.

(The document heretofore referred to as Prosecution Exhibit 5 for identification was received in evidence as Prosecution Exhibit 5, is attached hereto and made part of the record.)



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(Whereupon the prosecution read Prosecution Exhibit No. 5, Report of a Parliamentary Delegation, followed by a translation into the German language.)

PROSECUTION: May it please the court, just by way of explanation I should like to say that the House of Lords was represented by Earl Stanhope and Lord Addison and the House of Commons by Colonel Wickham, Sir Archibald Southby, Mrs. Tate, Mr. Ness Edwards, Mr. Silverman, Mr. Graham White, Sir Henry Morris-Jones and Mr. Driberg.

PRESIDENT: Court will recess until Monday morning at 9:00 o'clock.

(Whereupon at 1700 hours the court recessed until 0900 hours, 14 April 1947.)